THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 11676 of 2006

Oral order:

The petitioner's father while working as Security Guard with the respondents-State Bank of India at Kandukur, Prakasham District, died in harness on 03.07.2001. Pursuant thereto, the petitioner states that he has made representation dated 04.01.2002, followed by several other representations, the latest being dated 26.05.2006, requesting the respondents to provide him appointment on compassionate grounds, but the respondents instead of providing him compassionate appointment, five days back had sent a format of application to be submitted for payment of

ex gratia lumpsum amount on compassionate grounds. Hence, he filed the present writ petition assailing the inaction on the part of the respondents in not considering his representations for appointment on compassionate grounds.

The respondents-State Bank of India, filed detailed counter. The learned Standing Counsel for the respondents reiterating the counter averments submitted that pursuant to the death of the petitioner's father, the respondents settled terminal benefits to the tune of Rs.2,29,624/-, which are inclusive of provident fund, gratuity and leave encashment. The request of the petitioner for providing appointment on compassionate grounds was considered and rejected by the competent authority vide letter dated 16.07.2004 and the same was even communicated to the petitioner. The grounds on which the request of the petitioner for providing compassionate appointment was rejected are that terminal benefits of the deceased were settled, the petitioner is aged over 25 years and is married, the 2nd son of the deceased was granted family pension of Rs.1691/- with assumed interest of Rs.540/- on the terminal benefits, the total income works out to Rs.2,231/-, the family of the deceased was having house worth Rs.2,00,000/- lakhs, and a sum of Rs.1,08,000/- due by the deceased to SBI Staff Co-operative Society was written off. The learned Standing Counsel for the respondents denied the contention of the petitioner that the respondents had sent a format of application to be

submitted for payment of *ex gratia* lumpsum amount on compassionate grounds, and contended that the petitioner in order to overcome the rejection of his request for appointment on compassionate grounds, has come with a fabricated document. As the case of the petitioner for appointment on compassionate grounds was rejected by the respondents, much before the coming into force of the new scheme, which came into effect from 04.08.2005, and which provided for payment of *ex gratia* in lieu of compassionate appointment, in the case of those cases that are pending, the petitioner can neither seek appointment on compassionate grounds nor is entitled to claim *ex gratia* in lieu of compassionate appointment. She thus prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-State Bank of India.

The main object for granting compassionate appointment to the family member of a deceased is to enable the family of the deceased to tide over the sudden crises that befalls on the death of the sole bread winner and grant of compassionate employment is not a matter of right. The apex Court in **Shri Umesh Kumar Nagpal v. State of Haryana and others**[1], has noted the objects of granting compassionate employment, and they are:

> **I.(i)** To enable the family to tide over the sudden crisis by the death of the sole bread winner;
> **(ii)** To relieve the family of the financial destitution and to help to get over the emergency. The object is not to give a member of such family a post.
> **II.** Mere death of an employee in harness does not entitle his family to such source of livelihood.
> **III.** The Government or public authority has to examine the financial condition of the family of the deceased, and only if it is satisfied, but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.
> **IV.** The only ground, which can justify compassionate appointment, is the penurious financial condition of the family at the time of death of the employee. Offering employment irrespective of the financial condition of the family is legally impermissible.
> **V .** Consideration for compassionate employment is not a vested right to be exercised at any time in future.

The competent authority, as can be seen from the counter, considered the financial condition of the family of the deceased in the light of the afore-mentioned judgment, and rejected the case of the petitioner for grant of compassionate grounds vide letter dated 16.07.2004, which is said to have been communicated to the

petitioner, stating as follows:

1. Terminal Benefits Settled – Rs.2,29,624/-.
2. After excluding the married son (the petitioner herein), the dependents of the deceased consist of one major son and two minor sons.
3. The banks has sanctioned a family pension of Rs.1,691/- to the second son till he attains 25 years of age or is gainfully employed which ever is earlier. With assumed interest of Rs.540/- p.m. on 80% of net terminal benefits and investments, the total income works out to Rs.2,231/-, whereas the last drawn net salary of the deceased was only Rs.1,106/- p.m.
4. The family has a house worth about Rs.2,00,000/- to live in and gold ornaments worth Rs. 0.12 lakhs.
5. A sum of Rs.1.08 lakhs due to the SBI Staff Co-operative Credit Society was written off by them.

As the petitioner is said to be a married person, and having regard to fact that the benefits received by the family member of the deceased, owning of house, pension granted to the 2nd son, and assumed interest on the terminal benefits, which worked out to more than what the deceased was getting as net salary, the competent authority vide letter dated 16.07.2004, which is said to have been communicated to the petitioner, rejected his request for grant of appointment on compassionate grounds, and no exception can be taken thereto, and more so when grant of compassionate appointment, is not a vested right, and is granted only to tide over the immediate financial crisis that befalls on the family on the death of the sole bread winner. Inasmuch as it is the case of the respondents, which is evident from the copy of the letter dated 16.07.2004, filed before this Court, that the competent authority having considered the matter, rejected the case of the petitioner for grant of compassionate appointment, the petitioner cannot be allowed to contend that the respondents did not take any action on the representations filed by him and instead sent him a format of the application to be submitted for payment of *ex gratia* lumpsum amount on compassionate grounds, and more so when the respondent denied its sending. However, the petitioner, who is present in the Court submitted that the said format application was given to him by a representative of a Union. The format of application given by a representative of a Union, cannot be treated as the one officially sent by the respondents. At any rate, it is the specific case of the respondents that the petitioner is neither entitled to grant of compassionate appointment nor grant of *ex gratia* in lumpsum in lieu of compassionate appointment under the new scheme, which dispensed the grant of compassionate appointment, as his case was rejected

much before the coming into force of the new scheme, which was made applicable only to cases which remained unconsidered and pending and not to those already considered and rejected. Since the case of the petitioner was already rejected, much before the coming into force of the new scheme, which provided for grant of *ex gratia* in lumpsum in lieu of compassionate appointment, no direction can be given to the respondents to consider the case of the petitioner for grant of *ex gratia* in lumpsum on the basis of an application format, sent by a representative of a Union and not by the respondents.

There is no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 3rd August, 2006.
KSR

---

[1] 1994 (4) SCC 138